

CITY COUNCIL MINUTES

February 11, 2013

The Honorable Council of the City of Evansville met on regular session at 5:30 p.m. on Monday, February 11, 2013 in the City Council Chambers, Room 301 Civic Center Complex, Evansville, Indiana, with President Connie Robinson presiding. The following business was conducted.

These minutes are not intended to be a verbatim transcript. Audiotapes of this meeting are on file in the City Clerk's Office.

ROLL CALL:

Present: McGinn, Mosby, Brinkerhoff-Riley, Friend, Lindsey, Adams, O'Daniel, Weaver, Robinson.

There being nine (9) members present and zero (0) members absent and nine (9) members representing a quorum, I hereby declare this session of the Common Council officially open.

PLEDGE OF ALLEGIANCE

This evening the pledge of allegiance will be led by Councilman Friend.

President Robinson: Fellow Councilmen and those in the audience, welcome to the February 11, 2013 meeting of the Common Council.

RECOGNITION OF SCHOOLS

TEEN ADVISORY COUNCIL

Lauren Hayden, Hannah Clark, Quinn Hobson, Emerson Hobson, Morgan Jennings, Bailey Klipsch, Lexis Schue, Hugh Ehresbeck, Megan Pritchett, Sam Stratman, Beronica Ricketts.

COUNCIL ATTORNEY

Scott Danks is the City Council Attorney.

SERGEANT AT ARMS

Officer Karmire is the Sergeant at Arms this evening.

READING AND AMENDMENT OF MINUTES

President Robinson: Is there a motion to approve the minutes of the January 28, 2013 meeting of the Common Council as written?

Councilman McGinn moved and Councilman O'Daniel seconded the motion to approve the minutes of the regular meeting of the Common Council held January 28, 2013 as written. Voice vote. So ordered.

REPORTS AND COMMUNICATIONS

IN YOUR FEBRUARY 8th PACKET:

- *City Council Meeting Agenda for February 11, 2013.
- *Committee Meeting Schedule for February 2013.
- *City Council Meeting Minutes dated January 28, 2013.
- *Ordinances G-2013-1 and G-2013-2.
- *Resolution Docket C-2013-5.
- *Rezoning Ordinances R-2013-3 and R-2013-4.
- *Evansville Redevelopment Commission Minutes from January 15th and 23rd, 2013.
- *Calendar for February Meetings in the City County Administration Building.

*A memo from Controller Russell G. Lloyd to City Council regarding refunding Sewer Works Revenue Bonds.

ON YOUR DESK THIS EVENING:

Complimentary tickets for the Inaugural Awards Gala.

President Robinson: Do I have a motion to receive, file and make these reports and communications a part of the minutes of the meeting?

Councilwoman Mosby moved and Councilman O'Daniel seconded the motion to receive, file and make these reports and communications a part of the minutes of the meeting. Voice vote. So ordered.

CONSENT AGENDA

FIRST READING OF ZONING ORDINANCES

ORDINANCE G-2013-1 A.S.D. BRINKERHOFF RILEY

An Ordinance amending Chapter 18.130.010 and 18.130.050 of the Evansville Municipal Code
(Re: Front Yard Set Backs in areas of Pigeon Township)

ORDINANCE G-2013-2 FINANCE FRIEND

An Ordinance Authorizing the issuance of sewage works revenue refunding bonds of the City of Evansville, Indiana; prescribing the form and other details of the bond; providing for the collection and disposition of the revenues to be derived from its sewerage system; making other provisions with respect to the operation of the system and the issuance and sale of the bonds; and providing for the security and payment of the bonds; other matters connected therewith, and repealing ordinances inconsistent herewith

ORDINANCE R-2013-3 TO APC CO-2 w/U&D Comm. to CO-1 with U&D Comm.

An Ordinance to Rezone Certain Real Estate in the City of Evansville, State of Indiana, more commonly known as 11 Vann Avenue, Evansville, IN

Petitioner: Vicki L. Brasel
Owners: Same
Representative: Krista B. Lockyear, Attorney
District: Dan McGinn, Ward 1

ORDINANCE R-2013-4 TO APC R-1 with Special Use TO R-2

An Ordinance to Rezone Certain Real Estate in the City of Evansville, State of Indiana, more commonly known as 725 Windsor Avenue, Evansville, IN 47710

Petitioner: Lloyd Thomas and Nancy A. Mercer
Owners: Same
Representative: Same
District: John Friend, Ward 5

President Robinson: Is there a motion to adopt the Consent Agenda as written?

Councilwoman Mosby moved and Councilwoman Brinkerhoff-Riley seconded the motion to adopt the Consent Agenda as written. Voice vote. So ordered.

CONSENT AGENDA

SECOND READING OF ORDINANCES OR RESOLUTIONS

RESOLUTION C-2013-3

PUBLIC WORKS

O'DANIEL

A Resolution of the Common Council Approving an Interlocal Agreement with Vanderburgh County (Burkhardt Road and Virginia Street Intersection)

RESOLUTION C-2013-4

FINANCE

FRIEND

A Preliminary Resolution of the Common Council of the City of Evansville Declaring an Economic Revitalization Area for Property Tax Phase-in for the Acquisition and Installation of New Manufacturing Equipment (Berry Plastics Opco, Inc.) (101 Oakley Street, Evansville, IN)

COMMITTEE REPORTS:

PUBLIC WORKS COMMITTEE:

CHAIRMAN O'DANIEL

Councilman O'Daniel: Madam President, your Public Works Committee met this evening to hear Resolution C-2013-3 and it comes forward with a do-pass recommendation.

FINANCE COMMITTEE:

CHAIRMAN FRIEND

Councilman Friend: Madam President, your Finance Committee met this evening to hear Resolution C-2013-4 and it comes forward with a do-pass recommendation.

President Robinson: Thank you. Can I have a motion to accept the Committee Reports?

Councilman Adams moved and Councilman Friend seconded the motion to adopt the Committee Reports and move these Resolutions to Third Reading. Voice vote. So ordered.

REGULAR AGENDA

THIRD READING OF ORDINANCES AND RESOLUTIONS

RESOLUTION C-2013-3

PUBLIC WORKS

O'DANIEL

A Resolution of the Common Council Approving an Interlocal Agreement with Vanderburgh County (Burkhardt Road and Virginia Street Intersection)

President Robinson: Is there a motion to adopt Resolution C-2013-3 and call the roll?

Councilwoman Mosby moved and Councilman Lindsey seconded the motion to adopt Resolution C-2013-3 and call the roll.

ROLL CALL

Ayes: McGinn, Mosby, Brinkerhoff-Riley, Friend, Lindsey, Adams, O'Daniel, Weaver, Robinson

President Robinson: There being nine (9) Ayes and zero (0) Nays, Resolution C-2013-3 is hereby declared adopted.

REGULAR AGENDA

THIRD READING OF ORDINANCES AND RESOLUTIONS

RESOLUTION C-2013-4

FINANCE

FRIEND

A Preliminary Resolution of the Common Council of the City of Evansville Declaring an Economic Revitalization Area for Property Tax Phase-in for the Acquisition and Installation of New Manufacturing Equipment (Berry Plastics Opco, Inc.) (101 Oakley Street, Evansville, IN)

President Robinson: Is there a motion to adopt Resolution C-2013-4 and call the roll?

Councilman Friend moved and Councilman Weaver seconded the motion to adopt Resolution C-2013-4 and call the roll.

ROLL CALL

Ayes: McGinn, Mosby, Brinkerhoff-Riley, Friend, Lindsey, Adams, O'Daniel, Weaver, Robinson

President Robinson: There being nine (9) Ayes and zero (0) Nays, Resolution C-2013-4 is hereby declared adopted.

RESOLUTION DOCKET

RESOLUTION C-2013-5 (DOCKET)

FINANCE

FRIEND

A Resolution of the Common Council of the City of Evansville in Support of Economic Development Incentives offered to Berry Plastics Opco, Inc. by the City of Evansville to expand operations in the facility at 101 Oakley Street, Evansville, IN 47710

President Robinson: Is there a motion to adopt Resolution (Docket) C-2013-5?

Councilman McGinn moved and Councilman Friend seconded the motion to adopt Resolution (Docket) C-2013-5 and call the roll.

ROLL CALL

Ayes: McGinn, Mosby, Brinkerhoff-Riley, Friend, Lindsey, Adams, O'Daniel, Weaver, Robinson

President Robinson: There being nine (9) Ayes and zero (0) Nays, Resolution (Docket) C-2013-5 is hereby declared adopted.

MISCELLANEOUS BUSINESS

President Robinson: There will not be a City Council Meeting next Monday, February 18, 2013 because it is a City observed Holiday (President's Day). The next City Council meeting will be Monday, February 25, 2013 at 5:30 p.m. Committee meetings will begin at 5:20 p.m. on February 25, 2013.

APPOINTMENT OF MEMBERS TO THE COMMISSION ON THE SOCIAL STATUS OF AFRICAN AMERICAN MALES.

President Robinson: The following individuals are being recommended to serve on the Commission on the Social Status of African American Males:

Marcus Hester	New York Life Insurance Company
Bradley Dodson	Ivy Tech Community College
Karen Claybourne-Ussery	Medical Social Worker (Bankers Insurance)

President Robinson: Who gave you these names?

(Inaudible)

President Robinson: Yeah, I know.

Councilman O'Daniel: Sorry. It kind of just rolls off the tongue. Madam President, we met two Thursdays ago, I guess and we have, I believe, four vacancies on that committee, that commission. These individuals either were in person or discussed at that meeting and were recommended for either the positions they hold or the work that they've done with the Commission and so I would urge the Council to appoint these three to help the Commission.

President Robinson: So is that in the form of a motion?

Councilman O'Daniel: Yes.

President Robinson: Okay. Councilman O'Daniel moved and Councilman Adams seconded the motion to appoint Marcus Hester, Bradley Dodson, and Karen Claybourne-Ussery to the Commission of the Social Status of African American Males. Voice vote. So ordered.

APPOINTMENT FOR BOARD OF EXAMINERS OF HVAC STEAMFITTERS AND REFRIGERATION

President Robinson: Next we have an appointment to the Board of Examiners of HVAC, Steamfitters and Refrigeration to serve for one year. Everett Baylor has been recommended for this appointment. Does anyone know Everett Baylor.

Madam Clerk: Ben Miller is the one that...

President Robinson: Who did?

Madam Clerk: Ben Miller

President Robinson: Ben Miller did? Okay. Do I have a motion to appoint Everett Baylor to the Board of Examiners?

Councilman Friend moved and Councilman Lindsey seconded the motion to appoint Everett Baylor to the Board of Examiners of HVAC, Steamfitters and Refrigeration. Voice vote. So ordered. Thank you.

President Robinson: Lynn Miller Pease to speak on VOICE tonight.

Lynn Miller Pease: I had to bring my sidekick because I can never do anything technol...you know, any technology to work.

President Robinson: We all have a sidekick.

Lynn Miller Pease: She's actually in charge. What we are going to do is show a video taken from several people after VOICE sessions just to get a feel of the response. It's pretty brief.

It worked beautifully at 2:00 this afternoon.

Councilman Weaver: So Lynn, have the VOICE sessions met your expectations?

Lynn Miller Pease: Absolutely exceeded them.

Madam Clerk: You can cancel that or X out (*Direction for starting the video*).

Lynn Miller Pease: This is also posted on evansvillevoice.com if you want to go back to it at any time.

VIDEO PRESENTED

Lynn Miller Pease: John Colbert came to a number of different sessions and what he did was (*Inaudible*) and asked them what they thought about the process, what the results were like, how they felt about things, and we thought it was a quick way, if you hadn't had a chance to attend, that you could get a sense of what some of the people are saying. Also, if you notice in the background, maybe the coolest part of this thing is there were people of all different ages. We had little bitty kids, we had elderly people, we had people in wheelchairs, we had people from every different background, we had somebody signing so if they couldn't hear, they could be part of the...we are getting ready to have a VOICE with (*Inaudible*) so it will be bi-lingual (*Inaudible*)

It's just been a remarkable thing to see. All these different types of diverse people and diverse stakeholders come together. The (*Inaudible*) thing to cover the way this process has been facilitated and put together, it allows people...every single person that came got to speak. It was facilitated in a way that allowed them to get to...if they could get to the best it could be in 20 to 30 years, what would it look like? And maybe the most amazing for me and some of the volunteers, there's been like 80 people trained and you saw the list (*Inaudible*) and they were all different too, is I think of about a thousand people we've had three people be negative.

In an era where sometimes the best communication we get is somebody standing at a microphone and screaming at people who are public servants or trying to get good information, and there is a lack of trust and there is a lack of belief in what could be, what we are seeing is people come away going, "Oh wow! Our community really could be what we hoped it could be".

Our hope too is that people who are involved in planning this vision will also be engaged in making the solutions so your report...you guys got the report that's about half-way through I would say. So the next step will be, once we get done, and we have, gosh I don't know, I think maybe five more high schools to do, three or four more public sessions, what we are hoping to do then, we'll tabulate all the

information and everything that is done in these sessions is recorded by somebody taping this information on a computer and then putting it right up on the website. The people that are involved can see the outcome and also anybody that didn't get a chance to attend can go to that website and take a look and see what those topics are and what we are coming up with.

What we are going to be doing is looking for areas of interest so if a whole lot of people talk about they want connectivity between parks and a great way to stay healthier and green, we will know that that is one of the top topics community-wise. So as people in leadership positions, you'll be able to look and see what that information is (*Inaudible*).

Then at the end of the public sessions and the school sessions, we will come together and we will go back and report so that we can say, "This is what we heard you say", and (*Inaudible*), we want to make sure we give them that information, make sure that everybody was heard and that we heard them correctly. And then the next step...

President Robinson: Lynn, they can't hear you.

Lynn Miller Pease: Who can't?

President Robinson: On television, they can't hear you because you are not...

Lynn Miller Pease: Oh! I should talk into this (*the microphone*). I always feel like I'm loud in here. That's okay.

President Robinson: I know you are dramatic.

Lynn Miller Pease: I know, so there we go.

The next stage is after we get everything collected, we will go out and have a group of public meetings saying this is what we heard. Then, and that will be a check system to make sure we heard people right and give another opportunity for input. After that, we will be looking for topics that bubble up as an interest across the board. Then we would have topic meetings so if it were something like parks and connected kinds of things, or health, or green, or whatever it may be...riverfront, then we would have a meeting specifically about that, invite the stakeholders that are already engaged in that kind of activity and citizens that want to help. At that point, we will start to look at strategic actions that we can do together.

The whole time encouraging people to be part of the process of choosing but not only picking what they might want but how could they help make it happen.

The information is up, it's out there, so really any group or organization that is looking for this kind of detail could get it. I would hope it would be something that the Council could use. I would hope it would be something the Visitors and Convention Bureau might be able to use. Whoever is seeking information from the community should be able to use that data. So it's as broad in collecting as it is in giving it out so it's really meant to be for everyone.

After reading the report, do you guys have any specific questions that you would like answered.

Councilman O'Daniel: What do you think is the most interesting recommendation or voice to be heard so far?

Lynn Miller Pease: Oh my goodness.

Councilman O'Daniel: I kind of put you on the spot, but...

Lynn Miller Pease: No, that's okay.

Councilman O'Daniel: I think it gives people an idea, you know, I mean connectivity of parks, I mean that's a good idea, a very good idea, but something that is maybe outside the box that...

Lynn Miller Pease: I have often liked the way our citizens at times are drawing, not just the park connectivity but also the connectivity of all the diversity in our area, and making use of all the assets that we have. Also, the way of looking for fun things and things that we all can do together. Maybe the best part that I've seen would be the way that people are able to share and have everybody feel that they are part of it and it not be a debate. People have been really, really respectful in this process. It's just been absolutely fabulous to watch...fabulous to watch.

Connor, I don't want to say too much about what I think is the neatest because we've got a bunch more to do and I don't want anybody to think that everything is decided now and we are just doing the rest out of...because we said that we would.

The kids...we are so excited to see the young people and I don't know of a vision in any community who has taken the time to hear as many young people as we have. Literally hundreds.

President Robinson: What are the young people saying?

Lynn Miller Pease: Hmm?

President Robinson: What are the young people saying?

Lynn Miller Pease: First and foremost, they are so excited to be heard. I mean, first and foremost. They are jazzed about getting to be part of the decision and building the trust that what they say makes a difference and they can be part of planning this community. But they've got all kinds of cool ideas about clubs, about ways to get around. Lots of ideas about how to live in a greener community; really interested in keeping the environment safe. And I would just say that...could I say hipper ideas. Hipper ideas. They are just...they are a little...I hate to say it but they are cooler and hipper than we are.

Councilman O'Daniel: Well I think that's kind of, I mean, you know you're talking about concepts as well as working together, that's more of a concept, not an idea. But when you are talking about young people, a lot of times young people say, "Eh, they're not going to listen to me", you know, "Dad says it's some hair-brained idea. I'm not going to let my voice be heard", and I want, you know, some of the things that, you know, whether it be closing the skate park, but maybe something like that. I had a young man come in today and he does free running. That's his sport of choice and I was like, what is that? And he told me and I thought, well, you know that may be something we can explore somewhere

down the line. To somebody else it may be hair brained but maybe it's something that we need to encourage young people the hip thing is to come out.

Lynn Miller Pease: Well and the other thing is what the little bitty kids come up with because I don't think they've been around long enough to know that they can't have that idea or it couldn't work. They draw just really fabulous things or they will say things like, "I want everybody to have a house. It doesn't have to be big but we want it to be a nice house where everybody feels like they have a nice house, where they have a flower, where they have a garden. It's really very thoughtful in the way that they are concerned and when we get into the schools, like Evans School and Glenwood, where the young people have had tremendous challenges already, even in the first and second grade. They are very interesting about saying we need really good daycare, and that's coming from our little bittys, not necessarily our adults and that's been kind of eye opening. Some of the understanding of that need and the need for a community garden where people really get enough food and enough nutrition for everybody, so....

Yes Dan?

Councilman Adams: Hi Lynn.

Lynn Miller Pease: Was I supposed to say Your Honor and stuff Dan? I'm sorry.

Councilman Adams: Your words are infectious. Tell me though, how much does this process cost?

Lynn Miller Pease: The process itself?

Councilman Adams: Well the whole program.

Lynn Miller Pease: A lot more than has been paid for I think.

Councilman Adams: I am sorry?

Lynn Miller Pease: I'm teasing. No, this has been a huge undertaking for Leadership Evansville and the volunteers. To tell you the truth, I'm not sure how much it's costing us to do this.

Councilman Adams: So it's within your budget.

Lynn Miller Pease: Pardon?

Councilman Adams: It's within your budget? Leadership Evansville is...it's in your budget.

Lynn Miller Pease: Yes.

(Inaudible)

Councilman Adams: I know. I understand that but I was trying to figure out whether there was a special grant or some help.

Lynn Miller Pease: Not at this point. We have been receiving some assistance through some of the corporations that we've told about this. Obviously, the City has paid us some money. And this is a real labor of love. This is a labor of love.

Councilman Adams: So has it a number or you'd just rather not?

Lynn Miller Pease: I honestly don't know.

Councilman Adams: No? Okay.

Lynn Miller Pease: If you'd like me to come up with one, I'll try.

President Robinson: Okay, are there any questions...other questions from any Council members? Is there anyone in the audience that would like to speak on this?

(Inaudible)

Lynn Miller Pease: Our next meeting is tomorrow morning at North High School at a...I think it's at 9:00. Then February 17th we have Nativity Church at 12:30 and that's our Spanish and English speaking. The 19th we have Central High School, February 20th Bosse High School, February 26th Signature School, March 6th Day School, the 21st it's at Memorial Baptist Church and that's from 4:00 to 6:00, April 3rd we are going to have one at Eastland Mall to let people that maybe just hadn't heard about it but they can just wander up to it. I think...did I get all that? Did I miss any? And they are all on evansvillevoice.com.

(Inaudible)

Lynn Miller Pease: And they...well and they keep kind of like people hear about them and then they want one and we keep being approached, "Can you still do one? Can you still do one?" So we are a little bit...

President Robinson: How long will you continue to do this?

Lynn Miller Pease: Well I am hoping that we are going to get this first round wrapped by mid-April and then we will start looking at how to go back out in all the different places, to go back out and say what we've heard because we want to do that in a number of different places.

There has been a real attempt to make sure that the meetings are all over town so it's not just one side of town or Center-City that gets to go. So we'll need to go out to several places to say, "This is what we've heard". And then we need to go through and sort that information and figure out if there is something that we can do right away as a community and then the different topic areas and that also L.E. will facilitate those additional meetings around the topics and then also try to guide that...those action steps or strategic actions to make sure they happen.

One of the difficulties sometimes in a large community is that we think and then we stop, right? We think. We stop. And what we want to make sure is that all of this thinking and dreaming turns into

strategic action so that we can look back and say, "Okay, we started here. We decided as a group to do this, this, this...", and then we can measure and see how that goes forward and keep track of it that way. A lot of that is because of the huge number of volunteers that we've had in the VOICE session process. It's been unbelievable. I think some of them are here. If you've helped facilitate or be part of the VOICE sessions, stand up just so they can see some of the...very good.

President Robinson: Okay, well thank you Lynn. We appreciate it. I think Mrs. Tirmenstein has something to say on the subject.

Berniece Tirmenstein: Berniece Tirmenstein, 1636 E. Blackford Avenue. I think some of my concern has been answered already but I got communication from UNOE, United Neighborhoods of Evansville, and in it talked about VOICE. "Indiana teens and adult youth workers, we are seeking youth in grades 6 through 12 and adults who enjoy working with teens. Join us to learn more about Indiana's youth led movement dedicated to empowering teens to fight back against the deceptive marketing practices of tobacco companies and working to make our communities healthier. And what? A VOICE 101 training for adults and youth." Well I began to question, well is this connection with VOICE, the traveling City Hall?

President Robinson: No, I don't think so. Is it Lynn? You're not...no.

Lynn Miller Pease: No. I was like peeking over, say no, not our brand.

President Robinson: No.

Berniece Tirmenstein: Well it seems to me like the use of the word VOICE gets to be a little confusing. We have VOICES which is (*Inaudible*) for nursing home patients. We have VOICE for City Traveling, the City Traveling Hall, and now this. I mean it sounds...why do we have to use the word VOICE again?

President Robinson: You need to ask Lynn. Why did you choose the word VOICE?

Lynn Miller Pease: Well just sounded like...we wanted to hear people's voices; it seemed like a natural thing but we didn't realize they were going to do that. Thank you for letting us know though.

Berniece Tirmenstein: Thank you for the information.

President Robinson: Okay, thank you. And Lynn, thank you. We appreciate you coming forward and giving us this information.

Next on the agenda, I'm sure we all read the headlines in Saturday's paper concerning the hiring of our consultant, David Garrett. Upon the request of Dr. Adams, Scott Danks, our City Council attorney, did some investigation for us and at this time, I'd like to turn it over to Scott and let Scott tell us what he found out.

Counsel Danks: Thank you Madam President. In a nutshell, the allegations are absolutely false. Mr. Garrett has been performing accounting services for over 30 years. This man graduated from college in

1980 with honors with an accounting degree. A few years later, he sat for his CPA exam and he passed that exam, and he was certified and then he received other certifications as well. In his 30 years as a practicing accountant, he has never once practiced as a public accountant and therefore he doesn't see any need to maintain a certification for a CPA; it was not applicable to the job, and various jobs, that he'd done throughout the years. So in 1997 his certification expired. All he had to do to renew that is simply pay the renewal fee every three years and he chose not to because he wasn't using it.

The nature of the complaint, and let me back up because I called the State Board today and actually, they don't even have a formal complaint. I requested a copy of the written formal complaint and I was advised that they didn't have a written formal complaint and that surprised me. I explained to him what was reported in the Evansville Courier & Press on Saturday. I found it to be rather disturbing. It's also contrary to state statute, by the way, if a complaint is made with that board of this nature or any other nature. Those complaints are to remain strictly confidential until such time as an investigation is completed and until such time that they find probable cause of wrongdoing. None of that has occurred in this case but nevertheless that information was released.

But to get to the substance, I was told by the compliance officer that was quoted in the paper that he simply received a telephone call last Friday and based upon the telephone, somehow Mr. Garrett makes the front page, top headline of the Evansville Courier & Press before any investigation whatsoever was conducted on this complaint. So since he does not have a written complaint or a formal complaint I said, "Can you at least tell me what the allegation is?" He said, "Well, you know all this stuff is supposed to be confidential". I said, "Well I think you kind of blew that on Friday", and I said, "You know before we could respond or investigate this matter, we at least have to know what the allegations are". And he said, "Well the allegation is that he held himself out to be a Certified Public Accountant".

So I investigated the matter and I had further conversations with that particular individual. At no time has Mr. Garrett ever held himself out as a Certified Public Accountant. He wouldn't have any motive to do that because at no time has he ever performed the services of a Certified Public Accountant. *(Inaudible - tape change)* anybody should express surprise that he is not a Certified Public Accountant. When he submitted a proposal to provide consulting services to the Council, he also submitted his resumé and in his resumé, he listed prior certifications and among others was a certification as a CPA. He did not list any current certifications. Mr. Garrett communicates many times in writing and never do you see the letters CPA after his name in any communications, whether it is electronic or in paper form.

And then the contract that he entered into with this Council, the contract specifically states that he is to perform these services with or without the CPA certification. Unlike my contract that provides that I must maintain my license to practice law in the State of Indiana and be under good standing with the Disciplinary Commission. That was not provided for in Mr. Garrett's contract because we knew, and if anybody didn't know it, they should have known that he was not a certified CPA and we were not asking him, the Council was not asking him, to perform any services that required that certification.

And so I researched the federal, state and local laws, I couldn't find anything inappropriate. I spoke to the compliance office with the State Board of Accountancy and when I did so, I read to him verbatim the services that were to be performed by Mr. Garrett. I said, "Do any of these services require that he be a Certified Public Accountant?" And his response was, "Absolutely not".

You know I've been the attorney for this Council now just for about a month and a half or so and within that short period of time I've had numerous encounters with Mr. Garrett, and again, he's never represented himself as being a CPA; he's an accountant and he's a brilliant accountant. He's a brilliant analytical person. This man has spent several hundred hours performing various functions for this Council, gathering information for this Council, consulting with Council members and myself as an attorney, bringing us up to speed on various things. Those services were above and beyond the contract that this Council entered into with Mr. Garrett. He has not been compensated one penny for those services and I'm talking literally several hundreds of hours of work that he has performed, nor has he requested any compensation for that.

And then there is some type of twist that's put on this allegation that, okay, you know, Mr. Garrett didn't hold himself out as being a CPA. It's kind of comical if you have met this gentleman. He is incredibly intelligent but there is not...he doesn't hold himself out to be a CPA; he doesn't say he's a CPA; he doesn't even dress like a CPA. There is nothing about him that would cause you to think he is acting like he is a CPA, nor would he have any motive to because he doesn't have to be a CPA. But then the allegation kind of took a little spin that, okay, it's not Mr. Garrett, it's another Council member that in fact, at 5:10 this evening I received an email from the editor of the Courier & Press talking about my opinion on this issue but not so much that he disagrees but he states that he found, on two occasions, where Council members referred to Mr. Garrett as a CPA. Again, the question here is that Council members' intent. Was he trying to convince somebody he is a CPA for absolutely zero reason? He doesn't have to be a CPA. His credentials are impeccable.

And so, you know, the word "was" was left out. I've spoken to that Council member. He certainly had no intention to mislead anybody. It would sort of be foolhardy to try to do that because we have the man's resumé and he states that he is not a certified CPA.

But it's very much...Doc Adams, I hope you don't mind if I use you as an example but I know physicians I've known for a long time. Those folks retire, whatever, I'll always call them a doctor. And I'm not certain...I know that Doc Adams has retired, but frankly, I am frequently asked what Doc Adams...what does he do and that kind of stuff and I always say he's a cardiac surgeon. Well I suppose I'm lying, but I'm really not. I mean I always identify him as a cardiac surgeon. Judges that retire...anytime I address them, I address them as judges.

And so the two times that we had a Council member that was talking about Mr. Garrett, and again the emphasis was not on rather he is certified or not, but where there is a reference to him being a Certified Public Accountant, it is not to confuse or mislead anybody. That's just kind of the nature of how we refer to people. That particular Council member too is a Certified Public Accountant. The only time, in my opinion, that was mentioned that had any relevance was when that Council member was talking about Mr. Garrett's qualifications and he talked about a lot of things about Mr. Garrett and he said he's a CPA, among a lot of other things.

And so the word "was" was left out of there. It was not an intent to mislead. It was to let everyone know that this man took the CPA exam and he passed and most of us that are various professions know that that is one of the toughest exams to pass and if you pass your CPA exam and become certified you are no dummy. That was the only point. It wasn't that he currently today has renewed his certification because it is not necessary.

I can't speak highly enough of this man and I know that several Council members feel the same way. He is always accessible. His ability to take voluminous documents, financial documents, and to sift through those and to digest them, analyze them, and then present them to a lay person like myself in clear and concise language, I can't tell you how valuable that is to myself and I know many members of this Council.

This complaint, I don't know who made it. I have every intention of doing my best to find out. I think that it was very ill conceived. I think that it was malicious. This man has done a tremendous service to this Council and to the City of Evansville and for him to be publically attacked like this...I've seen it in the paper, I've seen it on TV, I was listening to it on the radio on my way into work. You know the only word that comes to mind to describe that is, it's disgusting. And that's the end of my report.

President Robinson: Okay, and then another thing I'd like to bring up, I think it was brought out in the paper that we did not go out for bids. Professional services, we do not have to go out for bids. We did not go out for bids when we hired Attorney Danks,

Counsel Danks: Maybe you should have in that case. But you are absolutely correct.

President Robinson: It is not a requirement and I don't think when they hired the other accounting firms to work in the Controller's Office, because it is a service contract, you do not have to go out for bid.

Councilman Friend: If I may...

Councilman Weaver: We did entertain cover letters and resumés from multiple City Council Attorney candidates. We had six or seven come in, so...

President Robinson: Well anyone that was interested...

Councilman Weaver:...we did make an announcement for it.

President Robinson: Anyone that was interested in applying for this job, Councilman Weaver, all they had to do...we talked about it several times that we needed to hire a consultant so if you knew anyone or any other Council member knew anyone that was interested in doing that and had the qualifications, all they had to do was submit a resumé.

Councilman Weaver: Well I don't think we really had the opportunity to that. It was pushed upon us to...

President Robinson: Pushed upon us?

Councilman Weaver: I think so.

President Robinson: Who was it pushed upon?

Councilman Weaver: Well I mean..."We have to hire this guy. We have to hire this guy. We have to hire this guy..."

President Robinson: Who said we had to hire somebody?

Councilman Weaver: Well I mean that was the name that was continually brought up.

And I appreciate your hard work, Mr. Danks. I thank you for that email this afternoon.

I guess, you know, it comes down to the public illusion, initially, is the complaint I hear, that he was a CPA initially and then constituent phone calls today, over the last couple days, about their privacy. Information being compromised...City employees. So that's what I'm hearing.

President Robinson: City...I don't understand it. City employee's private information being compromised by who?

Councilman Weaver: The possibility of that happening. I'm just telling you...relaying the message.

Counsel Danks: Happening...if I may inquire, happening how? By (Inaudible) activities that Mr. Garrett's engaged in.

Councilman Weaver: I've heard from a couple of City employees about their, you know, their paychecks, their Social Security numbers. I'm just relaying the message.

Counsel Danks: You know, I can tell you that any information that is provided to Mr. Garrett has the same protections as the information that is provided to the Finance Chairman. No confidential information would have been released and if somebody has information like that I would personally like to hear about it. I think, you know, it's just that type of thing. We hear these unfounded complaints. I don't know if this will make the front page of the newspaper tomorrow or not but I feel as though it's been an intentional attempt to bully this man, to intimidate this man. He's done a fantastic service. He's helping our Finance Chairman out more than words can express and he is being very effective. Now we seem to have an element out there that wants to get rid of him and so what we do is we publically embarrass this poor guy. He's done a fantastic job. But these are unfounded complaints, you know, somebody is making allegations...he's releasing confidential informatio

I suspect that's total hogwash. Now this is the first time I've heard that. I am the attorney for the Council. This could cause us some significant problems. I should be advised of that, I can investigate it and I can report back.

Councilman O'Daniel: I also think you have to look at it this way: Attorney Ziemer is here and as we heard the last time, you know, he reviews DMD records to determine whether or not they are confidential or not and he would stamp them confidential or not to be released if he felt that something might be compromised. I don't know what the ethics...

Councilman Weaver: I'm just relaying a message of (Inaudible).

Councilman O'Daniel: I'm not sure what the ethics of an accountant are but I would think that securing financial records is deemed confidential so part of his contract is to act as if, in accordance with the guidelines of a CPA. *(Inaudible)*.

Councilman Weaver: I've received like a dozen or so calls about *(Inaudible)*. Probably the City employees that are watching now or reading it in the minutes will be happy to hear *(Inaudible)*.

Councilman O'Daniel: Well and the other thing is, every City employees' salary is public information. I meant it's published in the paper yearly so I mean, you know, as...

Councilman Weaver: They are more worried about the other information on there.

Councilwoman Mosby: I just want to reiterate too, I did have some phone calls as well and so I appreciate you clarifying that, you know...

Counsel Danks: *(Inaudible)* worried about Mr. Garrett's services?

Councilwoman Mosby: Well no, just people asking, you know, when you hire someone, what are they bound to as far as confidential information, things like that, so I'm glad you did clear that up so people can hear that. That was a question I was just going to ask but you know, we could just resolve it. It's like any of us that receive confidential information, it should be kept confidential.

Counsel Danks: Agreed.

Councilman Adams: Well I'll tell you what. I have an 85 year old woman who plays tennis with me ask me what was going on. She wanted to know whether the guy did the job well and did it well without any problem. I said yes. She wanted to know what all the tempest in the teapot was.

Councilman Lindsey: I think one way we can clear this up, we can just have a Vote of Confidence and revote and see if David does have our confidence still. He's got mine and I make a motion that we do a roll call vote.

President Robinson: Is there a second?

Councilman Adams: Yeah, I'll second that right off that bat.

President Robinson: Okay.

Councilman Lindsey: That way there is no doubt in anyone's mind that the Council is behind the man that we hired.

Councilman O'Daniel: I mean it is sort of redundant because if we don't like what he's doing, we can remove him. So I mean the fact that there hasn't been that request doesn't strike me as being *(Inaudible)*

Councilman Lindsey: I made a motion...

Councilman O'Daniel: That's fine. Motion seconded.

Councilman Adams: We still don't know where this came from. It's kind of unpublished, on the sly, no paperwork.

Counsel Danks: And, you know...

Councilman Adams: I wonder why people are so afraid of this man.

President Robinson: Well I (*Inaudible*), yeah. Okay, we had a motion by Councilman Lindsey and a second by Councilman Adams to have a Vote of Confidence on David Garrett. Madam Clerk, please call the roll.

COMMENTS MADE BY COUNCIL MEMBERS BEFORE CASTING THEIR VOTES:

Councilman McGinn: Now I'm going to talk a little bit here first because I like to do it. But also I was absent when David's contract was voted on the last time. There were only eight people here. I, just so there's, you know, some of the people who are calling me and saying, "Oh gee, you are lucky you are not part of the controversy". I would have voted yes. I would have voted yes for a couple of reasons. One, I met the man for lunch and I was impressed with him. I'm still impressed with him. Number two is the State Board of Accounts slapped my hand for not exercising what was told in that report as our duty to have some sort of oversight and I believe that this gives us some oversight. It's not a finger-pointing, this person, that person, this person, it's not saying you were bad, you did a bad job. It is saying we are now going to do our jobs so I vote yes.

Councilwoman Mosby: I feel it is a duplication of services. We've got people set in place to do those jobs and I vote no again.

Councilwoman Brinkerhoff-Riley: Just briefly, I'd like to say that I too met Mr. Garrett. I...the facts as we know them tonight, Mr. Garrett did nothing wrong. I mean absolutely nothing. It sounds like any comments made were made off hand by someone else that made a mistake in terms of describing him, and looking at his resumé, he never put himself out to be a current CPA. I think he's done a good job. I think he suffers. What I would like to see is for him to receive more information in a more prompt manner from the Administration so that he's not always...so that he can do what we hired him to do which is stay on top of the process and give a report that's based on current information he's not...we are not wasting his time. He's really given us a lot of hours so I vote yes.

Councilman Friend: One thing I want to point out with Mr. Garrett, I think a lot of people remember Walt Lowe. Walt was a fine City...Walt Lowe was a very fine City Controller. I believe he was under McDonald...

President Robinson: No, Vandever.

Councilman Friend: Vandever. And Walt has given Mr. Garrett a glowing recommendation because Walt hired him. He was part of the City back in those days. He was the internal auditor, which we should really have at this stage what he did back then. And through his efforts he...there was a couple

of convictions for embezzlement and for fraud under the work that Mr. Garrett did back then for this very city. And I think we need more of that. I can't remember the last time there has ever been a fraud charge, I mean within the City, and I know we've had some in some of the townships but Mr. Lowe thought very much of him. I vote yes.

Councilman Lindsey: Well I think David has done a great job. I have met him. I respect him. I respect John and his opinion and let's face it, if our accountant on board on the Council doesn't know a good accountant then who would. I vote yes again.

Councilman Adams: Well I think you all know how I feel and I wonder if we ought not to in the long view think that maybe, like Fort Wayne, maybe we need to do an annual audit every January of the City's books. I vote yes.

Councilman O'Daniel: Since everybody else is talking, I might as well get my nickel's worth anyway. You know I think we hired him because he provides some expertise that I don't; that certain seven others don't have. John does but frankly, he's not the accountant for the City Council. He is the Finance Chair, and sometimes we have to separate ourselves from one role and allow somebody else to look into various aspects to make sure you don't get too close to it, that you kind of take a hands-off approach and make sure things are being done right. I think Dave's done that. And, you know, when he was hired on, he had already been doing some work prior to actually being hired, and I don't know, Russ, you can probably tell us, at that time, things were still, I wouldn't say in shambles but they were still...you were still working through that process. And I don't know if we'd heard from Umbaugh at that point but I think that the combination of hiring Umbaugh, of having Dave on our side looking into it, it sort of focused everybody in one direction to get things done and, you know, at least the reports are, from what I understand, we are essentially reconciled for 2012. So if you take it from a results-oriented aspect, he's done his job very well. He's kept everybody focused and going in that direction to make sure our books are safe and sound so that we can, as a Council, be assured that we're doing our job, as Dan said, but also that we keep our credit ratings, that we don't have any embezzlement, so we don't have any funny business. And so, I think we've all worked together. Each person has a role in this. I think Dan's fulfilled his aspect...or David's fulfilled his aspect of it and I want him to continue to do so until we get that State Board of Accounts ruling that we are safe and sound and so for that reason I vote yes.

Councilman Weaver: The taxpayers hired an accounting firm in late 2011 to oversee the reconciliations. Our City Controller is a CPA and they have also hired another firm to assist him through this process. So I think it's a duplication of services and a waste of taxpayer dollars. No.

President Robinson: I've been in meetings with Mr. Garrett. I've been impressed with him. I don't think any of us here have an accounting degree with the exception of John Friend. I don't think we're qualified to do what he's doing and if we were, the books would have been balanced in 2011. And we went into a new administration without the books being balanced and us not knowing that the books were not balanced. And we've already...we had two other accounting firms and we didn't know the books were not balanced and I think I have...Mr. Garrett has my vote of confidence, therefore I vote to keep him. I say aye.

ROLL CALL

Ayes: McGinn, Brinkerhoff-Riley, Friend, Lindsey, Adams, O'Daniel, Robinson

Nays: Mosby, Weaver

President Robinson: There being seven (7) ayes and two (2) nays, Mr. Garrett has our Vote of Confidence and I hope you're watching this Mr. Garrett. Seven of us are in support of you. Thank you.

Is there anything else under Miscellaneous?

Councilman Friend: Yes. I think Russ...

President Robinson: But you know, first I want to talk...I want to talk about something else, and maybe I shouldn't but it is just irking me. We need to learn how to agree to disagree as a Council and we don't need...Missy, I see you looking at me thinking why am I saying that. I am saying that because all of us on this Council floor, we go back and forth, we argue, and we talk about one another. I am tired of this. The public elected us to do a job and that's what we need to do. We need to do a job and stop playing these games. And if you got any problems with anybody on Council, call them up and talk to them about it. We need to be more professional in doing our job. And if anybody is upset because I said that, to hell with them and I'm sorry.

Yeah, I've had enough of this. This is more like Student Council and not City Council.

Okay, we'll go to the next one.

Councilman Friend: By the way, I think Russ (*Inaudible*), Russ, you were going to...

City Controller Lloyd: Good evening Council members, City Controller Russ Lloyd and I've got for the Council members, a memorandum regarding the reconciliations and the request Councilman Friend had made and I've got the...these are the reconciliations from June to December so I'm going to give those to Councilman Friend.

Councilman Friend: Thank you very much. Appreciate it.

City Controller Lloyd: Any Council member that would like a set of those, we can provide those copies for you and we'll...I thought we had two sets and I guess there was a mishap in the instructions but we have another set. One for Councilman Friend and one for Mr. Garrett and then if any other Council member wants that...

I'd like to just briefly read this one-page memo and then we can kind of...then if there are any questions, I'd be happy to entertain those.

Council Members, we are providing a stack of bank account reconciliations, information, per the request of Councilman Friend and your consultant Mr. Garrett and these are from June 2012 to December 2012. I want to preface this by reminding Council of the complexity of our financial records, hundreds of transactions that occur in our \$280,000,000 budget. In addition to our bank reconciliation efforts, we have a multitude of other responsibilities operating under the State of Indiana and legal guidelines.

These include daily deposits, withdrawals, budget preparation, capital asset tracking, purchase requisition approvals, maintaining insurance policies and records, and monitoring our City department financial transactions. Typically, the finance department processes 200 checks, 170 purchases orders, over 500 invoices a week, and we maintain a data base of approximately 4,000 vendors. So what I just want to point out, we do a lot more besides bank reconciliations.

And within that, as has been mentioned earlier, our top priority continues to be obtaining a clean 2012 audit from the State Board of Accounts. This is our most important project and we are currently working on completing our year-end, 2012 close, providing the fund balance receipts, disbursements and transfers that the Department of Local Government Finance asks us to provide them by law, due March 1st. We also have to publish a legal ad that lists all these balances and that has to be in the newspaper by March 1st so we actually have to get that to them approximately February 20th and we will have that for them.

In our previous agreement with Councilman Friend and Mr. Garrett, when we had talked in my office, was to provide our data after October 1st but we went ahead and provided all the information as you requested so you've got the whole year. These include the 35 bank accounts that are reconciled and I want to point out to you that that shows approximately \$88,000 plus on the bank side versus the books, so we are showing \$88,000 more in the bank that needs to be reconciled. I've discussed this with the State Board of Accounts and we will continue to do research on that. It was done in the period prior to October 1st. Since we initiated the new MUNIS treasury accounts, we've balanced to the penny through October, November and December. So that period from January 1st to September 30th, where we had to basically reconcile by hand, that's where the...we are showing \$88,000 more, which was a transaction that changed from the last time I reported to you.

And then finally, bottom line of the bank reconciliations show the City is currently long, which means more in the bank than what we show on the books, approximately 1/10 of 1%. I'd be happy to answer any questions.

Councilman Friend: Yes Russ, back on the last meeting we had, we were off like \$4,236.00.

City Controller Lloyd: Right.

Councilman Friend: According to the minutes. We're about 88 I guess, just the way it works.

City Controller Lloyd: There was a \$36,000 transaction that was entered the wrong way. It had to be reversed so it caused a \$72,000 change, and as I had stated, we were still going through some of these adjusting entries. We still have some to go through. We feel like we are 90+% through all that. We'll have our balances to report to the state by February 28th and I am confident of that. We'll book this entry, if we are unable to locate that between the thousands of transactions between January and September.

Councilman Friend: Say that \$52,000 change-up in nine months from the two weeks ago we talked about?

City Controller Lloyd: That was found between the time we talked and today.

Councilman Friend: And we don't...you don't...DMD's not in there yet.

City Controller Lloyd: I need to get the...we've got the statements. They do the reconciliations so we will get those to you this week.

Councilman Friend: Good. Thank you.

President Robinson: Is there any other questions...any other questions from any members of Council?

City Controller Lloyd: Thank you Madam President.

Councilman McGinn: One...in your opinion, are we going to be ready for our audit?

City Controller Lloyd: Yes. We will be ready.

Councilman McGinn: That's all I need to know.

City Controller Lloyd: And we've started entering information into the State Gateway system, grants and things like that, that we hadn't...last year we didn't get that entered until like the last week of February so we are ahead of the game in a lot of ways.

Councilman McGinn: Have you had a Saturday off yet this year?

City Controller Lloyd: I was...this Saturday I went traveling. I was off.

Councilman Friend: One.

Councilman McGinn: Thank you.

Councilman Friend: Now Russ, you were saying doing that they are doing that crosswalk to try to import this data into Gateway.

City Controller Lloyd: MUNIS or Tyler Technology is working on a report writer for us and actually, the County had originally requested the same thing. We received their kind of trial product and it didn't pull all the information like we needed so we sent it back to them. So we are in the process of getting that done; hopefully we will. But if not, we will be in position to just enter it all by hand like we did last year.

Councilman Friend: I want to thank you for your cooperation Russ.

City Controller Lloyd: Thank you.

President Robinson: Okay, I want to apologize for using profanity. I have my pastor in the audience and I want to apologize (*Inaudible*). I'm going to have to go to the altar on Sunday.

Councilman Adams: Welcome to my world.

President Robinson: But I mean, I love this city and there is so much that we can do but we have to stop fighting among ourselves and I'm passionate about it. So if I offended anyone, I apologize.

COMMITTEE REPORTS:

FINANCE COMMITTEE:

Re: Ordinance G-2013-2
Date: February 25, 2013
Time: 5:20 p.m.
Notify: Ted Ziemer

CHAIRMAN FRIEND

Authorizing the issuance of sewage works
revenue refunding bonds

A.S.D. COMMITTEE:

Re: Ordinance G-2013-1
Date: February 25, 2013
Time: 5:25 p.m.
Notify: Ted Ziemer

CHAIRWOMAN STEPHANIE RILEY

Amending Chapter 18.130.010 and 18.130.050
of the Municipal Code regarding front yard setbacks
in areas of Pigeon Township

PUBLIC WORKS COMMITTEE:

Nothing scheduled at this time

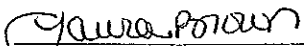
CHAIRMAN O'DANIEL

ADJOURNMENT

President Robinson: Can I have a motion for adjournment?

Councilwoman Riley moved and Councilman Friend seconded the motion to adjourn. Voice vote.
So ordered.

Meeting adjourned at 6:36 p.m.



Laura Brown, City Clerk



Constance Robinson, President